

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

2010 AUG 25 AM 11:35
JEANNE HICKS, CLERK

THE STATE OF ARIZONA

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER

Defendant.

BY: el Rio

No. P1300CR2008-1339

BEFORE:

THE HONORABLE WARREN R. DARROW
JUDGE PRO TEMPORE OF THE SUPERIOR COURT
DIVISION SIX
YAVAPAI COUNTY, ARIZONA

PRESCOTT, ARIZONA
TUESDAY, AUGUST 24, 2010

REPORTER'S PARTIAL TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

TESTIMONY OF PHILIP KEEN, M.D.

 ORIGINAL

KATHY JOHNSTON, RPR
Certified Reporter
Certified Reporter No. 50164

LOTT REPORTING, INC.

316 North Alarcon Street
Prescott, AZ 86301
928.776.1169

I N D E XPROCEEDINGSPAGET E S T I M O N YPAGE**PHILIP KEEN, M.D.**

Cross-Examination by Mr. Hammond

4

A P P E A R A N C E S

On Behalf of the State:

Mr. Joseph Butner and Mr. Jeffrey Paupore
Yavapai County Attorney's Office
255 East Gurley Street
Prescott, Arizona 86301

On Behalf of the Defendant:

Mr. John Sears
P.O. Box 4080
Prescott, Arizona 86302

Mr. Larry Hammond and Ms. Anne Chapman
Osborn Maledon, P.A.
2929 North Central Avenue
21st Floor
Phoenix, Arizona 85012

1 C R O S S - E X A M I N A T I O N

2 BY MR. HAMMOND:

3 Q. Okay. We'll cut back and talk about those and --
4 and look at whether there might have been -- been another
5 mistake.

6 But before we do that, I'd like to talk to you
7 a little bit about something you said last week about using
8 unsterilized clippers to clip the nails of the victim in this
9 case.

10 A. Yes, sir.

11 Q. That too was a mistake?

12 A. It's a procedural error, yes.

13 Q. It's a -- and with the benefit of hindsight, I
14 think you would -- you would agree with me that that's --
15 that's -- we could all call that a bad mistake? It's
16 certainly poor practice?

17 A. It was not good practice.

18 Q. Not good practice.

19 Let's talk about when these clippers were used
20 and what they were used for. You told us last time that on
21 the 3rd of July, you conducted an autopsy that began at about
22 3:45 in the afternoon. That was as -- as you know and as the
23 jurors all know the day after the horrible death that has
24 brought us here.

25 A. Yes, sir.

1 Q. The -- the autopsy itself in many ways was like
2 autopsies you've performed thousands of times over the years
3 in many ways?

4 A. In many ways.

5 Q. One of the first things you do in your autopsies is
6 you -- you look first for what you call and what we might
7 call trace evidence; correct?

8 A. Yes, sir.

9 Q. You do that before any of the other pretty graphic
10 things that happen in autopsies occur?

11 A. Yes, sir.

12 Q. You do a very full and careful visual scan of the
13 entire body?

14 A. Yes, sir.

15 Q. And you do that because you are looking for
16 anything that might be evidence, might help law enforcement
17 find the person or persons who could have had something to do
18 with the commission of this crime?

19 A. Yes, sir.

20 Q. And that's something you have done and learned way
21 back from your training in medicine and have done over your
22 entire career?

23 A. Yes, sir.

24 Q. Hard to imagine an autopsy in a homicide case that
25 wouldn't start out with an examination of the body looking

1 for trace evidence?

2 A. You would look, but obviously there's settings in
3 which the yield of the look is going to be much greater than
4 others, and so the diligence of that look is going to be
5 predicated upon the circumstances of the death. For example,
6 a long-distance sniper shooting, you're not going to have
7 much in the way of trace evidence.

8 Q. But this wasn't a long-distance --

9 A. No.

10 Q. -- homicide? And you -- you knew that from the
11 very first words you heard and the first observations you had
12 of this -- of this woman?

13 A. Agreed.

14 Q. So you were looking for the possibility that
15 there -- there might be -- be evidence that -- that could be
16 of use to law enforcement?

17 A. Yes, sir.

18 Q. And by the way, there were -- there were a good
19 number of law enforcement people present?

20 A. Yes, sir.

21 Q. How many?

22 A. I -- I don't even know. The report lists most all
23 the people, but I don't know if that's even all of them. I
24 know that there were -- there were some more who came and
25 went who are not listed on the -- on the report.

1 Q. We'd all be safe in saying that there were at least
2 six and maybe more?

3 A. Yes, sir.

4 Q. These are I call them law enforcement people. I
5 think you and I both in the vernacular often call them cops.

6 A. That's fine.

7 Q. You don't mean that -- when you use that term, you
8 don't mean it derogatorily?

9 A. No.

10 Q. You know that law enforcement people quite often
11 call themselves cops?

12 A. I've heard them.

13 Q. Have you heard them call themselves anything other
14 than cops?

15 A. Yes, sir.

16 Q. I don't want to know about it.

17 The law enforcement people are there for a
18 reason, aren't they?

19 A. Several reasons really.

20 Q. One of those important reasons is that they --
21 particularly those who are connected with the homicide
22 investigation itself, they want to learn what they can learn
23 that might assist them in their investigation?

24 A. Yes, sir.

25 Q. That's really the most important reason for them

1 being there, is it not?

2 A. I think so, but the implicit within that is not
3 only the learning of this particular case, but learning in
4 general for future applications in other cases as well.

5 Q. So they could actually have a little bit of a
6 learning experience that might assist them in a future case?

7 A. Yes, sir.

8 Q. And that's a good point. It's -- it's good for the
9 people in law enforcement to have an opportunity to gain some
10 experience that they may be able to use to properly solve the
11 next crime as well as to aid in the resolution of the case
12 before them?

13 A. Yes, sir.

14 Q. And they were, of course, interested in anything
15 you could tell them or that you could find in the course of
16 your examination beginning with the examination for trace
17 evidence?

18 A. I think it's a good assumption, yes, sir.

19 Q. Okay. When we say trace evidence, we -- we're
20 thinking about a number of things, and you mentioned some of
21 them. Hair being one?

22 A. Yes.

23 Q. Correct?

24 A. Yes.

25 Q. Biological fluids?

1 A. Sometimes.

2 Q. Sometimes. And sometimes not?

3 A. Frequently not.

4 Q. But certainly blood or skin from -- from a
5 perpetrator would always be something -- at least in a
6 homicide that appears to have occurred at close range would
7 be something you would be looking for?

8 A. Yes, sir. Attempt to look for it.

9 Q. We're going to talk some in this trial, have a
10 little bit already and are going to be talking more about
11 DNA. Some of us still think of DNA as -- as new science, but
12 in reality, DNA has been around as part of your career for
13 about 20 years now?

14 A. I guess we go back to Watson and Crick. It's
15 actually a little bit more than that, but the forensic
16 applications are more in that realm.

17 Q. Right. Forensic applications in terms of gathering
18 at autopsies blood and possible biological product, skin,
19 epithelial cells, things that you may be able to turn over
20 for -- for careful microscopic examination?

21 A. Yes, sir.

22 Q. But even before we had DNA, we -- we were always
23 interested in -- in finding blood that might help us identify
24 a perpetrator?

25 A. Yes, sir.

1 Q. Back in the old days of -- of blood typing, we were
2 still interested? Might produce something that would be of
3 use for an investigation?

4 A. Yes, sir.

5 Q. And so with that in mind, pathologists -- you and
6 forensic pathologists across the country as a general matter
7 have been -- have been on the lookout for -- for evidence and
8 are concerned about the possibility of contaminating
9 evidence?

10 A. Yes, sir.

11 Q. One thing you don't want to do in any autopsy,
12 whether it's a long-range shooting or whether it's
13 hand-to-hand combat, is do something in the autopsy that
14 might complicate the investigation down the road?

15 A. Correct.

16 Q. And so when -- when we think about these clippers,
17 we -- we have to think about them in the context of the
18 question whether those clippers might have in some way
19 contaminated the evidence in this case? And you mentioned
20 that --

21 A. Yes, sir.

22 Q. -- last time as a possibility.

23 But I think you know and will agree with us
24 that the risk of there being any significant contamination in
25 this case is extremely remote, extremely remote with respect

1 to those clippers?

2 A. I can't say that for sure. I -- I would like to
3 believe that.

4 Q. Let me ask you some questions.

5 A. Okay.

6 Q. I'm sure you would like to believe it, and let's
7 see what you've done or what you have learned that would
8 assist you in being able to believe that it is extremely
9 remote, almost to the point of being beyond the realm of
10 possibility, that those clippers could have contaminated the
11 evidence.

12 You had an assistant; correct?

13 A. I did.

14 Q. What was her name?

15 A. Karen Gere.

16 Q. Karen Gere is the person who -- who actually helps
17 you out and provides to you things like some of the
18 instruments that you might use during the course of an
19 autopsy?

20 A. Yes, sir.

21 Q. She also performs other functions for you, both
22 before and after an autopsy?

23 A. Yes, sir.

24 Q. Among those functions is cleaning the instruments?

25 A. Yes, sir.

1 Q. Part of her job and part of her job in July of 2008
2 was to make sure that the instruments that might be used in
3 an autopsy were clean?

4 A. Yes, sir.

5 Q. And how did she do that?

6 A. We used antiseptics soap solutions, and after any
7 case that we had performed, we -- we washed all the
8 instruments.

9 Q. Let's slow down. We use antiseptic soap?

10 A. Yes, sir.

11 Q. We wash the instruments, including the clippers?

12 A. No.

13 Q. You think not?

14 A. No. We -- 'cause --

15 Q. Hang on a second, Doctor.

16 A. Okay.

17 Q. I'll -- even though you've done more autopsies than
18 I've done examinations, you know how this process goes.

19 A. Yes, sir.

20 Q. I'll ask the questions and you can -- you can
21 answer them and if there's a question that needs to be
22 followed up on, the State can do that.

23 A. Yes, sir.

24 Q. Have you -- have you conferred with Karen Gere,
25 your assistant, about these clippers used in this case?

1 A. I have.

2 Q. And when did you do that, sir?

3 A. I think probably the first time was -- it was in
4 anticipation of or around the time of our October appearance
5 in court. There probably may even been times before that,
6 but certainly by then, I had talked to her.

7 Q. And have you -- have you -- have you talked to her
8 since then?

9 A. I talk to her quite frequently, but not
10 specifically about the clippers.

11 Q. You're aware that she was interviewed in this case?

12 A. Yes.

13 Q. And would you say that she was in error if -- if it
14 were to turn out to be the case that -- that she said she
15 regularly routinely washed all of the instruments, including
16 the clippers, with warm soapy antiseptic water?

17 A. I think that needs to be amplified.

18 Q. Okay. Well, let me ask you another question.

19 Isn't it also true that -- that Karen Gere was trained and
20 did actually scrub the instruments?

21 A. Yes, sir.

22 Q. That is usually brushed to scrub them?

23 A. Yes, sir. A little nylon brush.

24 Q. And so in this case, when you talked about pulling
25 a pair of clippers out of the instrument drawer, you weren't

1 thinking about pulling out a pair of dirty clippers?

2 A. No, sir.

3 Q. You had no reason to think that those clippers were
4 anything other than clean?

5 A. Correct.

6 Q. They hadn't been sanitized, but they were clean?

7 A. Yes, sir.

8 Q. And you also know that -- that after a question was
9 raised about whether those clippers might not have been
10 sanitized, an inquiry occurred with respect to whether there
11 might have been some contamination? You're aware of that,
12 aren't you?

13 A. Yes, sir.

14 Q. You're aware that -- that Karen Gere went back and
15 looked at other autopsies? Did you know that?

16 A. I -- I had that conversation with her. She told me
17 that she did. That's the way that I know that she did.

18 Q. She went back and looked at -- at autopsies that --
19 that could be identified where it was at least possible that
20 those clippers might have been used?

21 A. Yes, sir.

22 Q. And what she found was that there was no occasion
23 upon which those clippers were used in which there was any
24 reasonable possibility that DNA from someone in a prior
25 autopsy could have been transferred to the body of this

1 woman?

2 A. I think that's also correct.

3 Q. Okay. But, nonetheless, I think you recognized
4 that -- that having clippers that were not sanitized was bad
5 practice?

6 A. Yes.

7 Q. You've already said that.

8 A. Yes, sir.

9 Q. And so -- so now those -- those kinds of things
10 can't happen?

11 A. I can't say anything that happens today. I have no
12 knowledge about things today.

13 Q. Well, even though you have no knowledge of things
14 that happen today, you told us last week that you were aware
15 that there is now a protocol in the Yavapai County Medical
16 Examiner's Office? At least that's what I thought I heard
17 you say.

18 A. No. The -- the only thing relative to clippers,
19 the -- before I left, we requested that there be packaged,
20 unopened, fresh clippers to be put into use which would be
21 the protocol, but I don't know whether that's followed or
22 not.

23 Q. And don't -- didn't you also tell us that it was
24 your understanding that the clippers were used once and then
25 never used again?

1 A. That's the practice.

2 Q. That's what you said.

3 A. Yes, sir.

4 Q. And as far as you know, that is now the practice in
5 Yavapai County?

6 A. Yes, sir.

7 Q. So in the course of -- of giving some thought to --
8 to whether the use of these clippers might have created a
9 possibility of contamination, have you investigated the
10 question with respect to what was found on those fingernails?

11 A. I've never been supplied the information of what
12 was found.

13 Q. Well, you certainly know some of the things about
14 what was found.

15 A. Yes, sir.

16 Q. Let's break it down. You certainly knew that when
17 you looked at the -- at the right hand of the victim, you
18 found and you described for us last week a broken fingernail?

19 A. Yes, sir.

20 Q. Fractured is the word you used.

21 A. Yes, sir.

22 Q. A pretty deep fracture all the way down to -- to
23 the base?

24 A. Well, it's the interface of the base of the nail,
25 in the quick in lay terms.

1 Q. Right. But it's not the kind of thing that you as
2 a trained forensic pathologist would look at and say, oh,
3 that's irrelevant?

4 A. No.

5 Q. It looked to you like it was indeed the one thing
6 and the only thing that you could see that caused you to
7 think that there could have been a struggle here, a struggle
8 that went two ways?

9 A. Other than the defensive injuries, yes.

10 Q. And we'll come back and talk about the things that
11 you're talking about as defensive injuries, again, the two
12 parallel lines on the forearm, the right forearm of the
13 victim.

14 A. Yes, sir.

15 Q. But when you saw the broken fingernail, that caused
16 you to think that there may have been a struggle, a close
17 hand-to-hand struggle?

18 A. That's a possibility, yes.

19 Q. In which a -- and it seemed like a reasonable
20 enough possibility for you to want to pursue it?

21 A. Yes, sir.

22 Q. And that caused you to look with care at both
23 hands?

24 A. Yes, sir.

25 Q. And in particular to look with care at -- at the

1 underside of the fingernails and the top of the fingernails
2 for that matter?

3 A. Yes, but I didn't -- I look at them with visual.
4 I don't examine -- I don't look at them in the microscope.
5 I just look at them grossly and -- and guide my sampling
6 based upon what I see.

7 Q. Well, and you -- you described in your autopsy
8 report what you saw --

9 A. Yes, sir.

10 Q. -- correct?

11 And Exhibit 808 when you're talking about
12 your -- your preliminary evaluation for trace evidence,
13 you -- you say -- and this is at the bottom of page 2 of
14 Exhibit 808 under Trace Findings, you say: "The right hand
15 is covered with dried blood, however the left hand has much
16 less dried blood and swabs are taken of the surfaces of the
17 left hand, air dried and sealed."

18 A. Yes, sir.

19 Q. "There is dried brown material beneath some of the
20 fingernails and one fingernail appears to be fractured."

21 A. That's all correct.

22 Q. Do you remember seeing brown material?

23 A. Yes, sir.

24 Q. A pretty substantial amount of brown material?

25 A. Yes, sir.

1 Q. And brown material that as your report suggests
2 might be more than just blood?

3 A. I call it brown material. The thing you're worried
4 about and concerned about is that it's blood, but it could be
5 more than blood.

6 Q. It could be more than blood. And one of the
7 reasons you want to have those fingernails clipped and
8 preserved is so that a laboratory somewhere, not your
9 laboratory, but a laboratory somewhere else can -- can look
10 at those fingernails and do appropriate DNA testing?

11 A. Yes, sir.

12 Q. And you know in this case that was in fact done?

13 A. I understand it was done, yes, sir.

14 Q. You know that the fingernails on the left hand and
15 the right hand were clipped and bagged and sent to the
16 Arizona Department of Public Safety Northern Arizona Crime
17 Lab?

18 A. That's my understanding, yes, sir.

19 Q. Have you had occasion to look at those fingernails
20 at all since the day of the autopsy?

21 A. No, sir.

22 Q. In your review of materials in preparation for this
23 case, you haven't look at any of the photographs?

24 A. No, sir.

25 Q. Bear with me just a moment.

1 (Brief pause.)

2 MR. HAMMOND: Your Honor, might I approach the
3 witness?

4 THE COURT: Yes.

5 BY MR. HAMMOND:

6 Q. Doctor, I'm going to hand you what we've marked as
7 Exhibit 2955. And I'm going to tell you that that's a
8 photograph taken by -- by -- by our team from the evidence in
9 this case and identified to us as the fingernails of the left
10 hand.

11 A. Okay.

12 Q. Okay. Have you -- have you any reason to doubt
13 that what I'm telling you is -- that it is true, that those
14 are the fingernails of the left hand?

15 A. No.

16 Q. They came off in six pieces. Do you remember that?

17 A. I'm not surprised, because that's -- when you make
18 the cut across, sometimes you have to make a second cut.

19 Q. And you can see under these -- even in this
20 picture, you can see that there is a fair amount of brown
21 material?

22 A. Yes, sir.

23 MR. BUTNER: Judge, I'm going to object to
24 that last question and move to strike. He asked the witness
25 to testify from the exhibit which is not in evidence.

1 MR. HAMMOND: Your Honor, I move the admission
2 of Exhibit 2955.

3 MR. BUTNER: Objection. Foundation.

4 THE COURT: Sustained.

5 MR. BUTNER: And my previous objection, your
6 Honor, on motion to strike?

7 THE COURT: Overruled.

8 MR. HAMMOND: Your Honor, because of the
9 ordering of witnesses in this trial, the testimony of a
10 witness who would verify that this is in fact a photograph
11 taken from property in evidence of the fingernails provided
12 by the State to us will happen at a later time. I can
13 certainly avow to the Court that -- that in fact that is what
14 this photograph is.

15 THE COURT: Mr. Butner?

16 MR. BUTNER: That's still the same objection,
17 Judge. This is the first time I've seen this photograph.

18 THE COURT: Counsel, I need to have a side
19 bar.

20 Ladies and gentlemen, feel free to stand and
21 stretch while we do this.

22 And I'll see counsel at side bar. Thank you.

23 (Discussion off the record.)

24 THE COURT: Thank you, ladies and gentlemen.

25 Mr. Butner.

1 MR. BUTNER: Judge, are we back on the record?

2 THE COURT: We are back on the record.

3 MR. BUTNER: Okay. I confirmed the
4 disclosure, and subject to the avowals of counsel, the State
5 will withdraw its objection at this time.

6 THE COURT: It's 2955?

7 MR. HAMMOND: Yes, your Honor.

8 THE COURT: 2955 then is admitted.

9 BY MR. HAMMOND:

10 Q. See if we can get a little closer look at that.
11 It's not perfectly in focus, but I think it gives you a
12 pretty good idea. There -- there is a good deal of brown
13 material under there?

14 A. Yes, sir.

15 Q. Doctor, I will represent to you that by the time
16 that this photograph is taken, those fingernails have already
17 been -- been swabbed one time by the Department of Public
18 Safety. And we'll be hearing more about that as the case
19 goes on. And they eventually are swabbed again by another
20 laboratory.

21 A. Okay.

22 Q. And I know that you've been told that -- that the
23 results of this swabbing confirmed that there was male DNA
24 under those fingernails.

25 A. Again, I understand there's DNA -- male DNA under

1 the fingernails. I don't know left or right. I don't know
2 if these are left or right, but that's sort of a separate
3 issue.

4 Q. You know that -- that -- that the DNA found under
5 those fingernails, and I'll tell you it's the left hand,
6 turned out to -- to be what is known as evidence item 603.

7 A. I'll accept that. I just don't know that.

8 Q. Okay. And that -- that -- that that -- that
9 evidence item turns out to be what's called a full DNA
10 profile.

11 MR. BUTNER: Objection, your Honor. He's not
12 even asking him questions. Counsel's testifying. To form.

13 MR. HAMMOND: I'm asking him to -- to confirm
14 that -- I'm sure he knows this. It's inconceivable that --
15 that he wouldn't know by now.

16 THE COURT: Sustained as to form of question.

17 MR. BUTNER: Thank you.

18 BY MR. HAMMOND:

19 Q. You are aware that -- that male DNA was found in
20 this case?

21 A. I have been told that, yes, sir.

22 Q. And you -- you -- you certainly know and have known
23 for a very long time that that male DNA was found under the
24 fingernails?

25 A. Yes, sir.

1 Q. Fingernails that you clipped?

2 A. Yes, sir.

3 Q. You certainly know that?

4 A. Yes, sir.

5 Q. You've talked to law enforcement about that?

6 A. Yes, sir.

7 Q. On several occasions?

8 A. I wouldn't say several, but...

9 Q. Well, you've talked about it with law enforcement
10 enough to know that there was male DNA found from a -- from
11 an unidentified perpetrator?

12 MR. BUTNER: Objection.

13 BY MR. HAMMOND:

14 Q. That you certainly have known for a long time?

15 MR. BUTNER: Objection. Argumentative, Judge.
16 And asked and answered and vague and ambiguous. He doesn't
17 even specify which fingernails, whether it's the left or the
18 right hand.

19 THE COURT: Objection is sustained.

20 MR. BUTNER: Thank you.

21 BY MR. HAMMOND:

22 Q. You also know, Dr. Keen, that no DNA from Steve
23 DeMocker has been found under any fingernail?

24 A. I'm not aware of any that has been.

25 Q. And, in fact, you've been told that none was found?

1 A. I don't know that I've been told that. I have not
2 seen the DNA results, and so I don't really have an opinion
3 as to those results.

4 Q. So something else then that you may not have an
5 opinion about is whether it is even remotely possible that
6 the use of an unsanitized clipper could have contributed to
7 the DNA under the fingernails?

8 A. No. I could have an opinion about it. If there is
9 some, that is a possible source of it, yes. But I don't --
10 without knowing what it is, I don't know what I'm opining on.

11 Q. When you say it's a possible source, would you
12 agree with me that it is a very remote possible source?

13 A. I don't know. I just don't know.

14 Q. Okay. But you're not going to sit here and tell us
15 that -- that it's in any way your opinion that this
16 particular mistake is one that could have compromised the
17 integrity of this case? You're not going to say that?

18 A. The mistake of?

19 Q. The mistake of using clippers that by your own
20 statement when you were here before is not the best practice?

21 A. No, I'm not saying that that caused it.

22 Q. Okay. And indeed you're not even saying that it
23 was in any way likely to have been a significant contributor
24 in this case? You don't think that at all, do you?

25 A. No. I have some reservations both pro and con.

1 Q. And -- and part of the reason that you have
2 reservations is that you know that the practice here was not
3 the best practice?

4 A. I agree to that. It was not the best practice.

5 Q. But we're not talking about clippers that could
6 have contained some significant amount of biological product
7 enough so that for instance you could see it? You're not
8 talking about there being skin or blood or something else
9 under those clippers when they were pulled out of the drawer?

10 A. No, I'm not saying that at all.

11 Q. So if there -- if there was any possible
12 contamination, we're talking about microscopic contamination?

13 A. I think that's a fair characterization, yes, sir.

14 Q. Not visible to the human eye?

15 A. Correct.

16 Q. And -- and probably not in an amount large enough
17 to have been a significant contributor to the very fabulous
18 amount of DNA found in this case?

19 A. Don't know --

20 MR. BUTNER: Objection to the form of the
21 question, Judge. Argumentative.

22 THE COURT: Overruled.

23 You may answer.

24 THE WITNESS: I don't know. You've
25 characterized it -- without knowing the results, I don't know

1 how to characterize it nor how to interpret it.

2 BY MR. HAMMOND:

3 Q. Dr. Keen, when we talk about possibilities and the
4 possibility of a -- of a mistake or -- or either the -- the
5 contamination of -- of a -- of a piece of evidence in a case,
6 you know because you're an experienced professional that --
7 that mistakes like that can happen?

8 A. Yes, sir.

9 Q. But it's -- it's a very rare occurrence in your
10 experience or in the experience of most forensic pathologists
11 that -- that an error of contamination results in -- in some
12 significant error occurring in the course of the case?

13 A. Yes, sir.

14 Q. And in your experience, there have been
15 relatively -- thankfully relatively few of those?

16 A. I think that's a fair characterization, yes, sir.

17 Q. Just before we go on from the -- from the trace
18 evidence review, you also were looking at that time for --
19 for any other evidence that could be collected and passed on
20 to the scientific laboratory?

21 A. Other trace evidence? Yes, sir.

22 Q. Well, in addition to the other categories of trace
23 evidence.

24 A. I think we were pretty comprehensive in the typical
25 things we were doing. We were looking for blood smears. We

1 look for fingernails. We look for the clippings. We look
2 for further traces of things that we saw. We collect the
3 hairs which we saw on the surfaces. And we -- we gathered up
4 the clothing intact. I'm not sure what else we would be
5 looking for.

6 Q. But the -- and so -- so in particular with respect
7 to -- to items of hair, you did make a special effort to make
8 sure that insofar as you could see in your close visual
9 inspection that there might be any hairs on the body, you
10 collected those?

11 A. Yes, sir.

12 Q. And among the hairs you collected, I think you --
13 you may have said that some of those hairs turned out to be
14 animal hair?

15 A. I said to my -- they appeared that they might well
16 be, but, again, I didn't look under the microscope to make
17 that final determination.

18 Q. And you were never advised later that any of those
19 hairs either were or were not human?

20 A. I've not seen any of the trace evidence reports,
21 no, sir.

22 Q. And you haven't been told about them in your
23 conversations with other members of law enforcement?

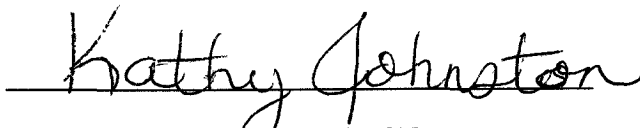
24 A. I -- if I have, I don't recall them.

25 (Conclusion of requested testimony.)

REPORTER'S CERTIFICATE

The above and foregoing is a true and complete partial transcription of my stenotype notes taken in my capacity as Acting Official Reporter of Yavapai County Superior Court, Kathy Johnston, Certified Reporter No. 50164, Division One, at the time and place as set forth.

Dated at Prescott, Arizona, this 24th day of August, 2009.


KATHY JOHNSTON
Certified Reporter No. 50164
Registered Professional Reporter

FILED ON _____